IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

JIMMY LANCASTER	§	
	§	
	§	
VS.	§	
	§	Civil Action No.
	§	
LONGVIEW TOYOTA OPERATIONS, LLC	§	
A/K/A LV TOY OPERATIONS, LLC,	§	
& AUTOMOTIVE OPERATIONS, LP D/B/A	§	
PAT LOBB'S TOYOTA OF LONGVIEW	§	

COMPLAINT

Jimmy Lancaster, plaintiff, alleges:

1. This case is filed under 42 U.S.C. § 12133.

VENUE AND JURISDICTION

2. The Court has jurisdiction of this action pursuant to 28 U.S.C.§ 1331.

3. Venue is proper in this court under 28 U.S.C. § 1391(b)(1) and (2), because the defendants reside in this district and a substantial part of the events or omissions giving rise to the claim occurred in this district.

PARTIES

4. Longview Toyota Operations, LLC a/k/a LV TOY Operations, LLC, may be served by and through its registered agent for service of process, Brandon Scott Lobb, at 600 Travis St., Ste. 2800, Houston, TX 77002.

5. Automotive Operations, LP may be served by and through its registered agent for service of process, Lawrence Patrick Lobb, at 3350 South Central Expressway, McKinney, TX 75070.

FACTS

6. Longview Toyota Operations, LLC, and Automotive Operations, LP bought an existing Toyota dealership in Longview in December of 2014.

7. The existing Toyota dealership had an employee, Jimmy Lancaster, who remained an employee of Longview Toyota Operations, LLC & Automotive Operations, LP, from December of 2014 until February of 2015.

8. Longview Toyota Operations, LLC, and Automotive Operations, LP are engaged in an industry affecting commerce and has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

9. Jimmy Lancaster worked as a salesman at Longview Toyota Operations, LLC and Automotive Operations, LP .

10. Jimmy Lancaster had colon cancer in 2008, which resulted in the removal of part of his colon and rectum.

11. As a result, Jimmy Lancaster cannot evacuate without the use a colostomy bag. The colostomy bag is permanent.

12. Even with the colostomy bag, Jimmy Lancaster has to take sudden and frequent breaks to relieve himself and empty his colostomy bag, which leaks from time to time. It requires time to clean.

13. The previous owner of the dealership made accommodations for Jimmy Lancaster, and he was able to work as a salesman without any problem.

14. Longview Toyota Operations, LLC, told Jimmy Lancaster that he could not take breaks to go home if he was sick and he would have to remain at his desk throughout the day.

15. Jimmy Lancaster made repeated requests to Longview Toyota Operations, LLC, for reasonable accommodations.

16. Longview Toyota Operations, LLC, refused to make any accommodations for Jimmy Lancaster's disability and offered no other reasonable alternative.

17. Jimmy Lancaster was told that he was not disabled and would not be treated any differently from the other employees.

18. As a result, Jimmy Lancaster could not continue working there and was terminated in February of 2014.

19. Jimmy Lancaster filed a charge of discrimination with the EEOC against Longview Toyota Operations, LLC, on December 11, 2015.

20. The EEOC issued a right-to-sue letter on September 19, 2016.

LIABILITY

21. "No covered entity shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment." 42 U.S.C. § 12112(a).

22. The term "discriminate against a qualified individual on the basis of disability" includes "not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such

covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity." 42 U.S.C. § 12112(b).

23. "Covered entity" means an employer. 42 U.S.C. § 12111(2).

24. "Employer" means a person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year. 42 U.S.C. § 12111(5)(A).

25. "Disability" means "a physical or mental impairment that substantially limits one or more major life activities of such individual." 42 U.S.C. § 12102(1)(A).

26. "Major life activities" includes the operation of a major bodily function, including the functions of the digestive, bowel, and bladder systems. 42 U.S.C. § 12102(2).

27. "The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment, or appliances." 42 U.S.C. § 12102(4)(E)(i).

28. Longview Toyota Operations, LLC is liable to Jimmy Lancaster under 42 U.S.C. § 12117(a) (incorporating the remedies and procedures available under 42 U.S.C. § 2000e-5(f)(1), which provides for a private right of action).

DAMAGES

29. Longview Toyota Operations, LLC is liable to Jimmy Lancaster under 42 U.S.C . 1981a(a)(2) for Jimmy Lancaster's actual damages as a result of the constructive discharge, including his lost wages, as well as punitive damages.

ATTORNEYS' FEES AND COSTS

30. Attorneys' fees and costs are recoverable. 42 U.S.C. § 2000e-5(k).

JURY DEMAND

31. The Plaintiff demands a jury trial in this case.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

32. The plaintiff has exhausted all administrative remedies before the filing of this suit.

PRAYER

33. For these reasons, plaintiff asks for judgment against the defendans for the following:

a. Actual damages.

b. Punitive damages.

c. Pre-judgment and post-judgment interest.

d. Reasonable attorney's fees.

e. Costs of suit.

f. All other relief the Court deems appropriate.

Dated: September 28, 2016

Respectfully submitted,

THE LAW OFFICE OF JONATHAN WHARTON
P.O. Box 3585
Longview, TX 75606
Tel. (430) 558-0053
Fax (903) 900-4727
E-mail: jonwhartonlaw@gmail.com

By: /s/ Jonathan Wharton
JONATHAN WHARTON
STATE BAR NO. 24075764

ATTORNEY FOR PLAINTIFF,
JIMMY LANCASTER